UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,748	10/24/2003	Dennis W. Waggamon	125426-1089	2451

7590 04/18/2008

KENNETH R. GLASER
MICHAEL E. MARTIN
GARDERE WYNNE SEWELL LLP
1601 ELM STREET, SUITE 3000
DALLAS, TX 75201

EXAMINER	
HOLLOWAY III, EDWIN C	
ART UNIT	PAPER NUMBER
2612	
MAIL DATE	DELIVERY MODE
04/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/693,748	WAGGAMON ET AL.	
	Examiner	Art Unit	
	Edwin C. Holloway, III	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6 and 7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6 and 7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

EXAMINER'S RESPONSE

1. In response to applicant's amendment filed 2-7-08, the amendment has been entered. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that the claims are unpatentable for the reasons set forth in this Office action:

Specification

2. The amendment to update the continuing data in the specification is acknowledged.

Terminal Disclaimer

3. The terminal disclaimer filed on 1-14-08 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,049,289 has been reviewed and is accepted. The terminal disclaimer has been recorded.

4. The terminal disclaimer filed on 1-14-08 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,667,684 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not

included in this action can be found in a prior Office action.

6. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heitschel '118 (US 4750118) or Heitschel '986 (US00RE37986E) in combination with Brewer'904 (US 5686904).

Heitschel'118 discloses an analogous art GDO receiver with random access memory (RAM) in CPU 44 for automatically and randomly storing transmitter codes. If all memory location have been used, storing a new code will erase or overwrite at least one old code. See col. 4 lines 58-68. Heitschel '968 is a reissue of Heitschel '118 and includes selecting a memory address to be erased in all location are used in claim 24.

Bruwer'904 discloses an analogous art secure self learning system with reference to garage door opening in col. 1 lines 22-23 and reference to Heitschel '118 for code learning in col. 2 lines 22-41. A transmitters designated for a manufacturer (manufacturer master key) and having a unique code (unique serial number 62) and multibit hopping codes (32 bit encoded string 70) is included in fig. 2 and col. 14 line 19 - col. 16 lien 20. A receiver with memory 84 and processor 100 for learning transmitter information in described in co. 19 line 37 - col. 20 line 36. Brewer discloses randomly storing hopping code parameters in available locations of memory during the learn mode (col. 17 line 26 - col. 18 line 2 and col. 19 line 37

- col. 20 line 35), corresponding to randomly storing or randomly replacing stored information. The selected location can be managed by a variety of schemes including cycling through locations and allowing the user to choose. Both, particularly user input, can include a random element. Also, any information in the memory location would obviously be overwritten.

Regarding claims 6-7, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Heitschel'118 or Heitschel '986 the hopping codes, unique codes and manufacturer designation of Brewer '904 to prevent unauthorized control and increased security of a garage door operation. It further would have been obvious to have included in Heitschel the randomly storing or replacing information as suggested by Bruwer to learn random information and/or to allow selection of memory location for learning to be managed by a variety of schemes.

7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heitschel '118 (US 4750118) or Heitschel '986 (US00RE37986E) in combination with Issa (US 5798711)

Heitschel'118 discloses an analogous art GDO receiver with random access memory (RAM) in CPU 44 for automatically and randomly storing transmitter codes. If all memory location have been used, storing a new code will erase or overwrite at least

one old code. See col. 4 lines 58-68. Heitschel '968 is a reissue of Heitschel '118 and includes selecting a memory address to be erased in all location are used in claim 24.

Issa discloses an analogous art hopping code learning system with reference to garage door opening in col. 2 lines 550-51. A transmitters designated for a manufacturer (manufacturer code and algorithm in col. 16 lines 6-9 and 61-63) and having a unique code (serial no. in col. 15, line 49, unique code in col. 22 line 30) and multibit hopping codes (hopping bits in col. 8 line 28) is shown in fig. 1. A receiver with memory 37 and processor 35 for learning transmitter information in described in co. 24 line 16 - col. 25 line 26. Overwriting old codes is disclosed in col. 24 line 30. Learning includes storage or overwrite of hopping codes and/or hopping algorithm (col. 18 lines 19-29, col. 26 lines 7-11) corresponding to randomly storing or replacing.

Regarding claims 6-7, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Heitschel'118 or Heitschel '986 the hopping codes, unique codes and manufacturer designation of Issa to prevent unauthorized control and increased security of a garage door operation. Randomly storing or randomly replacing information would having been obvious in view of the storing or

overwriting of hopping codes/algorithms that include a random element in Issa to prevent unauthorized control and increased security of a garage door operation.

8. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soenen (US 6046680) in combination with Issa (US 5798711)

Soenen discloses an analogous art GDO receiver with random access memory 36 in MPU 30 for automatically and randomly storing transmitter codes. Up to four codes can be stored. If all memory location have been used, the next code will overwrite a code. See col. 1 lines 20-43 and col. 14 lines 29-36. The stored code may be randomized for increased security (abstract).

Issa discloses an analogous art hopping code learning system with reference to garage door opening in col. 2 lines 550-51. A transmitters designated for a manufacturer (manufacturer code and algorithm in col. 16 lines 6-9 and 61-63) and having a unique code (serial no. in col. 15, line 49, unique code in col. 22 line 30) and multibit hopping codes (hopping bits in col. 8 line 28) is shown in fig. 1. A receiver with memory 37 and processor 35 for learning transmitter information in described in co. 24 line 16 - col. 25 line 26. Overwriting old codes is disclosed in col. 24 line 30. Learning includes storage or overwrite of hopping codes and/or hopping algorithm

(col. 18 lines 19-29, col. 26 lines 7-11) corresponding to randomly storing or replacing.

Regarding claims 6-7, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Soenen the hopping codes, unique codes and manufacturer designation of Issa to prevent unauthorized control and increased security of a garage door operation. Alternatively, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Issa the random storage and overwrite of Soenen suggested by the overwrite of Issa to delete obsolete or lost transmitters. Further, randomly storing or randomly replacing information would have been obvious in view of the randomized code of Soenen or the hopping code/algorithm of Issa to increases security.

Response to Arguments

9. Applicant's arguments filed 1-14-08 have been fully considered but they are not persuasive.

The terminal disclaimers overcome the double patenting rejections.

The argument that Heitschel uses a non-random switching arrangement directing learned codes into pre-selected addresses is not persuasive because the claims are not rejected as

anticipated by Heitschel alone, but in combination with other references. The argument that neither Brewer nor Issa appear to remedy this deficiency is not persuasive because Brewer discloses randomly storing hopping code parameters in available locations of memory during the learn mode (col. 17 line 26 - col. 18 line 2 and col. 19 line 37 - col. 20 line 35), corresponding to randomly storing or randomly replacing stored information. The selected location can be managed by a variety of schemes including cycling through locations and allowing the user to choose. Both, particularly user input, can include a random element. Also, any information in the memory location would obviously be overwritten. It would have been obvious to have included in Heitschel the randomly storing or replacing information as suggested by Bruwer to learn random information and/or to allow selection of memory location for learning to be managed by a variety of schemes. Issa also discloses storing or overwriting a random hopping code and/or algorithm corresponding to randomly storing or randomly replacing information.

The argument that Soenen lacks randomly replacing because the receiver overwrites the first stored coded is not persuasive because replacing is claimed in the alternative so the limitation does not need to be anticipated by the prior art. Further, the stored code of Soenen may be randomized for

increased security (abstract). Therefore, randomly storing or overwriting would have been obvious in view of the randomized code of Soenen to increases security. Randomly storing or randomly replacing information would also have been obvious in view of Issa as discussed above.

The same prior art has been applied. Changes to the rejections were necessitated by applicant's amendments.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than

SIX MONTHS from the date of this final action.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Zimmerman, can be reached on (571) 272-3059.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4/18/2008 /Edwin C. Holloway, III/
(571) 272-3058 Primary Examiner, Art Unit 2612